

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARIA AGNE,

Plaintiff,

v.

RAIN CITY PIZZA, L.L.C. et al.,

Defendants.

CASE NO. C10-1139-JCC

PRELIMINARY INJUNCTION  
AND ORDER

This matter comes before the Court on a preliminary-injunction hearing and Plaintiff's motion for sanctions (Dkt. No. 114). Defendants John George and Robert Wisnovsky did not appear before the Court as ordered. Having thoroughly considered the positions of the parties, the Court enters a preliminary injunction enjoining Defendants George and Wisnovsky from engaging in any direct communication with Plaintiff. The Court denies Plaintiff's motion for sanctions. The Court further orders Defendants George and Wisnovsky to show cause why the Court should not enter a default judgment against them for failing to comply with the Court's order regarding dissemination of their contact information.

I. DISCUSSION

Plaintiff received a letter directly (i.e., not through her counsel) from two Defendants representing themselves pro se, John George and Robert Wisnovsky. The letter begins by stating

1 that Plaintiff should “please pay attention” and apologizes if the recipient is not the same Maria  
2 Agne that sued the Defendants. The letter then asserts that under state law Defendants George  
3 and Wisnovsky “will come after” Plaintiff for legal expenses they incur in her lawsuit against  
4 them. Perhaps recognizing what could be perceived as the threatening nature of the letter,  
5 Defendants George and Wisnovsky state, “This letter is not intended to intimidate or threaten  
6 you. We are stating our rights under the laws of Washington State.”

7 According to Plaintiff’s counsel, counsel contacted Defendant Wisnovsky who verified  
8 sending the letter. Counsel asked Mr. Wisnovsky if he would agree to stop sending materials  
9 directly to Plaintiff and send all communication through counsel. Mr. Wisnovsky refused and  
10 said, “Ask the little bitch how it feels.”

11 The Court thereafter entered a temporary restraining order concluding that Defendants  
12 George and Wisnovsky’s conduct was improper and intolerable. (Dkt. No. 113). The Court  
13 ordered that Defendants George and Wisnovsky refrain from communicating directly with  
14 Plaintiff and ordered that they file notice of their current address, telephone number, and  
15 applicable email address. The Court also gave Defendants George and Wisnovsky an opportunity  
16 to inform the court before the preliminary-injunction hearing that they would comply with the  
17 conditions of the restraining order. Defendants George and Wisnovsky did not so notify the  
18 Court.

19 Subsequently, Plaintiff’s counsel notified the Court of a second letter from Defendants  
20 George and Wisnovsky to Plaintiff. That letter arrived after the Court entered the restraining  
21 order, but it was postmarked prior to that order. Plaintiff moved for sanctions. Defendants  
22 George and Wisnovsky neither filed notice of their contact information nor appeared for the  
23 preliminary-injunction hearing.

## 24 II. CONCLUSION

25 As the Court concluded in its temporary restraining order, Defendants George and  
26 Wisnovsky’s behavior is improper and intolerable. Defendants George and Wisnovsky have a

1 right to represent themselves pro se, but they also maintain an obligation to comply with  
 2 procedural rules and to conduct themselves with proper decorum in this litigation, inside and  
 3 outside the courtroom. *See Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) (“Courts of justice  
 4 are universally acknowledged to be vested, by their very creation, with power to impose silence,  
 5 respect, and decorum, in their presence, and submission to their lawful mandates.” (quoting  
 6 *Anderson v. Dunn*, 6 Wheat. 204, 227 (1821)); *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987)  
 7 (“Pro se litigants must follow the same rules of procedure that govern other litigants.”); *In re*  
 8 *Disciplinary Proceeding Against Haley*, 126 P.3d 1262, 1263 (Wash. 2006) (“[U]nder RPC  
 9 4.2(a), a lawyer acting pro se is prohibited from contacting a party represented by counsel in the  
 10 matter . . . .”); *Bisciglia v. Lee*, 370 F. Supp. 2d 874, 879 (D. Minn. 2005) (“[A]lthough they are  
 11 pro se litigants, Plaintiffs must abide by the Minnesota Rules of Professional Conduct, which  
 12 prohibit a lawyer from communicating with a party known to be represented by another lawyer  
 13 . . . .”).

14 Accordingly, for the duration of this litigation, the Court ENJOINS Defendants George  
 15 and Wisnovsky from engaging in any direct communication with Plaintiff. Instead, Defendants  
 16 George and Wisnovsky must communicate exclusively through Plaintiff’s counsel, Albert H.  
 17 Kirby. Defendants George and Wisnovsky shall also conduct themselves in the appropriate civil  
 18 manner commanded by these proceedings and this Court. A violation of this injunction may  
 19 result in sanctions or an order of contempt, or both.<sup>1</sup>

20 The Court DENIES Plaintiff’s motion for sanctions (Dkt. No. 114). The second letter sent  
 21 by Defendants George and Wisnovsky was postmarked prior to the Court’s temporary restraining  
 22 order, and there has not been, to the Court’s knowledge, a communication violation since that

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23  
 24 <sup>1</sup> The Court declines to impose a security bond under Rule 65(c) because the conduct  
 25 enjoined is not the type for which security is necessary to protect the interests of the enjoined  
 26 parties. *See Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003) (“The district court may  
 dispense with the filing of a bond when it concludes there is no realistic likelihood of harm to the  
 defendant from enjoining his or her conduct.”).

1 order.

2       However, Defendants George and Wisnovsky have failed to comply with the Court's  
3 order requiring notice of Defendants George and Wisnovsky's current contact information. The  
4 Court orders Defendants George and Wisnovsky TO SHOW CAUSE why the Court should not  
5 enter a default judgment against them for failure to comply with the Court's order. Defendants  
6 George and Wisnovsky must respond within ten days of the date of this order in a filing no more  
7 than five pages. Failure to respond to this order may result in monetary sanctions or the entry of  
8 a default judgment of liability, or both.

9       DATED this 24th day of May 2011.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE